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REGULAR

NUMBER: 38.761

TITLE: AN ORDINANCE OF THE CITY OF MILPITAS AMENDING SECTIONS 2, 3, 4, 6, 7, 8, 17, 18, 19, 21, 22, 30, 35, 38, 40, 41, 42, 43, 45, 53, 54, 55, 57, 58 and 63 OF CHAPTER 10, TITLE XI OF THE MILPITAS MUNICIPAL CODE.

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of May 6, 2003, upon motion by Councilmember _____ and was adopted (Second reading) by the City Council at its meeting of _____, upon motion by Councilmember _____. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals and Findings.

- A. Pursuant to Government Code section 65853 and 65854, the Planning Commission of the City of Milpitas held a properly noticed public hearing on April 9, 2003 to consider the amendments to Title XI, Chapter 10 of the Milpitas Municipal Code. In accordance with Government Code section 65855, the Planning Commission has rendered a decision in the form of a written recommendation, which was presented to the City Council prior to consideration of this Ordinance.
- B. Upon receipt of the Planning Commission's written recommendation, the City Council held a properly noticed public hearing on May 6, 2003.
- C. The City Council finds that this Ordinance does not render Title XI, Chapter 10 inconsistent with the City of Milpitas General Plan.

SECTION 2. The *Zoning Map* of the City of Milpitas, which was adopted as part of Ordinance No. 38, enacted as Title XI Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code is hereby *amended by adding a new Sectional District Map No. 555*, which includes the zone change of 27 parcels, a copy of which is attached hereto and incorporated herein.

SECTION 3 Title XI Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code is hereby *amended with the addition of the following new subsections*:

Section 2 - Definitions

2.07-1 Amateur Radio Facility

A wireless communication facility operated by an FCC licensed amateur radio operator within the Amateur Radio Service (USC Title 47, Part 97).

2.07-2 Amateur Radio Operator

A person holding written authorization to be the control operator of an Amateur Radio facility. This authorization may be in the form of a license or permit issued by the Federal Communications Commission or a foreign national or multi-national license or permit recognized by treaty as valid in the United States.

2.07-3 Antenna

Any system of towers, poles, panels, rods, wires, drums, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves. See also "Satellite dish or satellite antenna".

2.26-1 Child Care Center

Any child care facility other than a family child care home, in which less than 24-hour per day non-medical care and supervision are provided to children in a group setting. It includes infant centers, preschools, and extended child day care facilities.

2.26-1.2 Commercial Wireless Communication Facility

A wireless communication facility operated by a for-profit business or for-profit purposes. See by contrast, "Noncommercial wireless communication facility".

2.26-1.3 Conference Center

A facility used for holding conventions, seminars, workshops or similar activities, including dining facilities and lounges for use by participants, as well as compatible accessory facilities such as offices and business centers.

2.58-1 Medical and Dental Offices

A building or place where (a) member(s) of the medical profession, dentists, chiropractors, osteopaths, acupuncturists, and physicians or occupational therapists provide diagnosis and treatment to the general public without overnight accommodation and shall include such uses as reception areas, offices, consultation rooms, and x-ray and minor operating rooms providing that all such uses have access only from the interior of the building or structure. These types of uses shall not include massage or acupressure establishments unless the requirements of the City's massage ordinance are met.

2.58-1.1 Medical and Dental Clinics

A building or place where (a) member(s) of the medical profession, dentists, chiropractors, osteopaths, acupuncturists, and physicians or occupational therapists provide diagnosis and treatment to the general public without overnight accommodation and shall include such uses as reception areas, offices, consultation rooms, x-ray and minor operating rooms, and a pharmacy, providing that all such uses have access only from the interior of the building or structure. These types of uses shall not include massage or acupressure establishments unless the requirements of the City's massage ordinance are met.

2.58-1-2 Medical Laboratory

A building or place for the purposes of scientific work or research related to the medical sciences.

2.58-5.2 Noncommercial Wireless Communication Facility

A wireless communication facility operated by a government agency, a nonprofit organization, a for-profit business for non-profit purposes or a private citizen for personal use. It includes all amateur radio facilities. See by contrast, "Commercial wireless communication facility".

2.62-1 Parcel

A "parcel" shall mean a legal lot of record.

2.67 (a) Public Right-of-Way

As defined in Chapter V-500-1.3 of the Milpitas Municipal Code, "public right-of-way" shall mean the full width of the right-of-way of any street, as defined in the California Vehicle code used by the general public, whether or not such street has been accepted as and declared to be part of the City system of streets, including streets forming a part of the State Highway System. "Public right-of-way" also includes easements where the

City is the grantee of the easement and property owned by the City of Milpitas or the Milpitas Redevelopment Agency and any public park, trail, or right-of-way within the City of Milpitas.

2.67 (b) Public Use

A use intended to serve the whole city and/or region and operated by a public institution or entity. Such uses have the purpose primarily of serving the general public and include public schools, recreational facilities, government facilities, government housing, government clinics, and the like.

2.68-1 Satellite Dish Antenna or Satellite Antenna

Any device incorporating a reflective surface that is solid, open mesh or bar configured to form a shallow dish, cone, horn or cornucopia used to transmit and/or receive electromagnetic signals. This definition includes antennas that are sometimes called "SES", "TVRO", "TVBS", and "DBS".

2.69-.5 Setback

See "Yard".

2.77(a) Tri-laminate Asphalt Composition

An asphalt composition roof material that is comprised of three layers of tile adhered together to create one shingle and when installed overlap with another row of three-layered tile for a total minimum thickness of 7/8 inches.

2.77(b) Tutoring Centers

Facilities offering academic instruction to individuals or groups in a classroom setting.

2.78-4 Wireless Communication Facility

The equipment and associated structures needed to transmit and/or receive electromagnetic signals. A wireless communication facility typically includes antennas, supporting structures (including, but not limited to, monopoles, utility structures, buildings and accessory structures), enclosures and/or cabinets housing associated equipment, cable, access roads and other accessory development.

Section 4 – "R1" Single Family Residence District

4.02-5 Permitted Uses

Second family unit, in conjunction with an existing legal single-family dwelling. Refer to Subsection 54.22 of this Chapter for development standards.

4.03-6 Accessory Uses

Large family child care home, as provided for in Subsections 53.23-6 through 53.23-8 and 54.16.

Section 6 – "R2" One and Two Family Resident District

6.02-5 Permitted Uses

Second family unit, in conjunction with an existing legal single-family dwelling. Refer to Subsection 54.22 of this Chapter for development standards.

6.03-6 Accessory Uses

Large family child care home, as provided for in Subsections 53.23-6 through 53.23-8 and 54.16.

Section 7 – “R3” Multi-Family High Density District

7.02-4 Permitted Uses

Second family unit, in conjunction with an existing legal single-family dwelling. Refer to Subsection 54.22 of this Chapter for development standards.

7.03-6 Accessory Uses

Large family child care home, as provided for in Subsections 53.23-6 through 53.23-8 and 54.16.

7.09-1.5 Automobile parking and loading areas

Parking space dimensions shall be as follows:

- (a) Standard parking spaces shall be a minimum of nine (9) feet wide by eighteen (18) feet long.
- (b) Compact parking spaces shall be a minimum of 7.5 feet wide by 15 feet long. When compact parking spaces are used in garages with more than two spaces each space shall be marked as compact.
- (c) Tandem parking spaces shall be a maximum of two (2) parking spaces deep.

7.09-4 Automobile parking and loading areas

For Multiple-Family dwelling units that require two (2) permanent off-street parking spaces, two (2) parking space deep tandem parking as surface parking or garage parking shall be allowed for each dwelling unit. All tandem parking spaces shall be assigned and marked for residents only

7.09-5 Automobile parking and loading areas

A maximum of forty (40) percent of parking may be compact parking spaces. No compact parking spaces are allowed for guest parking.

7.09-6 Off-Street Parking

There shall be provided off-street parking for automobiles in terms of design layout and sufficient quantity in accordance with the requirements of Section 53. All such parking spaces shall be improved as provided for in subsection 54.03.

Section 8 – “R4” Multi-Family Very High Density District

8.02-3 Permitted Uses

Second family unit, in conjunction with an existing legal single-family dwelling. Refer to Subsection 54.22 of this Chapter for development standards.

8.03-5 Accessory Uses

Large family child care home, as provided for in Subsections 53.23-6 through 53.23-8 and 54.16.

8.06-2.5 Off-Street Parking

Parking space dimensions shall be as follows:

- (a) Standard parking spaces shall be a minimum of nine (9) feet wide by eighteen (18) feet long.
- (b) Compact parking spaces shall be a minimum of 7.5 feet wide by 15 feet long. When compact parking spaces are used in garages with more than two spaces each space shall be marked as compact.
- (c) Tandem parking spaces shall be a maximum of two (2) parking spaces deep.

8.06-3 Off-Street Parking

For Multiple-Family dwelling units that require two (2) permanent off-street parking spaces, two (2) parking space deep tandem parking as surface or garage parking shall be allowed for each dwelling unit. All tandem parking spaces shall be assigned and marked for residents only.

8.06-4 Off-Street Parking

Carports shall be no more than eight (8) parking stalls wide and shall be separated from one another by a four (4) foot wide (interior dimension) landscape island, planted with a tree.

8.06-5 Off-Street Parking

A maximum of forty (40) percent of parking may be compact parking spaces. No compact parking spaces are allowed for guest parking.

8.06-6 Off-Street Parking

There shall be provided off-street parking for automobiles in terms of design layout and sufficient quantity in accordance with the requirements of Section 53. All such parking spaces shall be improved as provided for in Subsection 54.03.

Section 18 – “C1” Neighborhood Commercial District

18.02-27.1 Principal Permitted Uses

Medical and Dental Offices

18.03-8.1 Uses Permitted Subject to Receiving a Conditional Use Permit

Medical and Dental Clinics.

Section 19 – “C2” General Commercial District

19.02-35.1 Principal Permitted Uses
Tutoring centers

Section 22 – “TC” Town Center District

22.02-19.1 Principal Permitted Uses
Medical and Dental Office (EA, WA)

22.02-26.1 Principal Permitted Uses
Residential developments of between twenty-one (21) and forty (40) units per gross acre (WA)

22.02-35 Principal Permitted Uses
Tutoring centers.

Section 30 – “M1” Light Industrial District

30.02-3.1 Principal Permitted Uses
Medical and dental offices, clinics and laboratories when found necessary to serve and appropriate to the industrial area.

Section 35 – “MP” Industrial Park District

35.04-5.1 Conditional Uses
Conference centers with compatible accessory facilities when said accessory facilities are found ancillary to the primary use.

Section 38 – “MXD” Mixed Use District

38.02-5.5 Principal Permitted Uses
Large family child care home, as provided for in Subsections 53.23-6 through 53.23-8 and 54.16.

38.02-7 Principal Permitted Uses
Second family unit, in conjunction with an existing legal single-family dwelling. Refer to Subsection 54.22 of this Chapter for development standards.

38.02-8 Principal Permitted Uses
Any other uses which are added to this list by the City Planning Commission, in accordance with the procedure prescribed in Section XI-10-54.02.

38.04-4.2 Prohibited Uses
Two family dwelling units

Section 43 – “TOD” Transit-Oriented Development Combining District

43.05-3 Development Standards

"C2-TOD" Areas.

- (a) The maximum FAR in the "C2-TOD" District is one hundred percent (100%, or 1.0).

43.05-4 Development Standards

"M2-TOD" Areas.

- (a) The maximum FAR in the "M2-TOD" District is forty percent (40%, or 0.4).

Section 53 – Off Street Parking Regulations

53.14-3 Compact Stalls

No compact parking spaces shall be allowed for any commercial uses or in any commercial zoning districts except as otherwise provided for in Section 38 for MXD Zoning District requirements.

Section 54 – General Provisions

54.09-15 Accessory Buildings and Structures

Utility or mechanical equipment structures, such as pool equipment units and air conditioning units shall not come closer than 3 feet to any side or rear property line.

54.09-16 Accessory Buildings and Structures

Wireless Communication Facilities exempt from obtaining a conditional use permit as per Section 57.02-15.1:

- a) No vertical structure associated with an Antenna (hereinafter "Tower or Mast") shall exceed the maximum height of a structure permitted in the zoning district in which the structure is located by more than twenty-five (25) feet (hereinafter "Maximum Height") except as provided in this Section. The Maximum Height shall be measured to the highest point of the Tower or Mast or Antenna(s) mounted thereon.
- b) All Towers or Masts must be attached to the main structure or to a foundation. In any event, the design of the attachment must meet or exceed the Tower or Mast manufacturer's recommended design for such structural attachment or foundation. Guy wires may only be used as a means of support for Towers or Masts only if such Tower or Mast does not exceed 20 feet in height. Wire antennas suspended from Towers or Masts shall not be considered guy wires. Such manufacturer's recommended design shall be submitted with the building permit application and shall form the basis for permitting and subsequent inspection.
- c) The sum of equivalent flat plate wind load(s) in square feet of all equipment needed for the communication facility to function and that are mounted on the Tower or Mast shall not exceed 100% of the Tower or Mast

manufacturer's maximum wind loading specification for a minimum 70 mph wind if located on the valley floor and 80 mph wind if located within the hillside area.

- d). No part of any Antenna mounted on a Tower or Mast may extend closer than 3 feet to a property line whether fixed or movable, or forward of the front of the building. However, in no case shall any such antenna encroach into a utility easement within which overhead power lines are located. If such antenna serves a multi-family unit that is within a multi-family building where the unit does not adjoin a side or rear yard of the building, such antenna attached to the unit or attached to a structure attached to the unit may extend forward of the front of the building by no more than 3 feet. However, in no case shall any such encroachment forward of the front of the building extend into a public right-of-way or private accessway.
- e). All Towers and Masts attached to a foundation must be located within the side or rear yard and no closer than 10 feet from a property line. However, in no case shall a Tower and/or Mast encroach into a utility easement.
- f). Receive-only radio and television antennas, citizens band facilities and data communications facilities and satellite dishes one meter or less in diameter in residential zones, or two meters or less in diameter in commercial and industrial zones shall not be installed between a public right-of-way and a structure. Any of the aforementioned wireless communication facilities that are preempted by federal law that are proposed to be located in the area between a public right-of-way and a structure, shall be allowed without a use permit if such facility is attached to said structure and if such location provides the only unobstructed view required for the facility to function.
- g). There shall be no more than two antenna support structures that exceed 20 feet in height per parcel.
- h). A Tower or Mast may exceed the Maximum Height referenced in subsection a) above only by an extendable Tower or Mast provided that (a) the collapsed height of the Tower or Mast and Antenna(s) does not exceed the Maximum Height and (b) the extendable Tower or Mast shall be permitted to exceed the Maximum Height only during communications operations and shall be lowered to the Maximum Height upon termination of each operating session.
- i). Masts, Towers and Antennas shall not be painted and shall be limited to grey, black, white, brown, tan, silver, gold, pale blue, dark green or any other color compatible with surrounding structures or vegetation.
- j). If an Antenna, Tower or Mast is no longer used for its intended purpose, it shall be removed.
- k). All operations of Tower or Mast mounted Antenna(s) must meet applicable FAA and FCC rules and regulations and any emissions must meet applicable FCC and ANSI radiation safety guidelines.

54.19 Condominium Conversions

54.19-1 Condominium Conversions

Purpose - The City of Milpitas is concerned with maintaining an adequate supply of housing for its citizens including rental housing. The adopted Housing Element of the Milpitas General Plan contains the following goal statements, pertinent to this matter:

- (a) To encourage the provision of a variety of individual choice of tenure, housing type, and location.
- (b) Within our ability, to provide opportunities for Milpitas citizens to meet their housing needs in the housing market.
- (c) To encourage the cooperation within the housing market so that suppliers and consumers can function more effectively, consistent with community growth goals.
- (d) That zoning is to be used in ways which will encourage variety and mix in housing types and provide adequate sites for housing persons of all races, ages, ethnic groups, and income levels in Milpitas. Housing is considered a basic necessity and any scarcity within the community area has both a direct and indirect adverse impact on public safety, health and welfare (including but not limited to, health and safety problems relating to the quality of housing). In times of low vacancy rate and high housing cost many people cannot afford to buy homes within the community or its nearby market area and are forced to rent housing in apartments or other multiple dwellings. The unregulated conversion of rental apartment units to condominiums ownership may aggravate such a serious situation and force citizens to move out of the community.

54.19-2 Condominium Conversions

Declaration of Housing Shortage:

When the number of vacant apartments being offered for rent or lease in the City is equal to or less than six (6) percent of the total number of such dwelling units offered for and under rental or lease agreement in the City, a housing shortage exists which is inconsistent with the purposes of this chapter and with the declared goals of the City relating to its Housing Element of its adopted General Plan.

54.19-3 Condominium Conversions

Determination of Vacancy Rate and Surplus:

Whenever an application for a condominium conversion is filed, the Planning Division shall conduct a vacancy rate survey of the existing rental apartment dwelling units in the City. This survey shall be completed within forty-five (45) days from the date the application for condominium conversion is deemed complete.

54.19-4 Condominium Conversions

Surplus Required for Conversion Application:

An application for condominium conversion of existing multiple family rental housing units to residential condominium ownership shall not be approved unless there is a vacancy surplus of existing apartments which equals six (6%) percent or greater of the total number of such units, within the City, as of the most recent determination made pursuant to Section 7.14-3; and if all of the adult tenants lawfully in possession of two-thirds of the units indicate their desire to convert such project to condominium ownership, in writing, to the City. In no event shall a number of lots, parcels, units, or rights of exclusive occupancy proposed exceed the vacancy surplus by forty (40) percent. Nothing herein contained shall be construed to prevent the payment of any consideration by landlord to tenant, provided however, consent obtained by payment to a tenant shall not be considered by the Council to be a free and willing consent unless payment of the same consideration is made to all tenants regardless of consent.

54.19-5 Condominium Conversions

Development Standards. The following standards are required for any Residential Condominium Conversion development.

- (a) Off-Street Parking: Conformance to the current off-street parking standards as contained in Section 7, "R3" Multi-Family District.
- (b) Landscape & Open Space: Conformance to the current landscape and open space requirements as contained in Section 7, "R3" Multi-Family District.
- (c) Housing and Fire: Conformance to the current Housing codes and Fire Regulations of the City of Milpitas.
- (d) Meters and Control Valves: The consumption of gas and electricity within each unit shall be separately metered so that the unit owner can be separately billed for each utility. A water shut-off valve shall be provided for each unit or for each plumbing fixture.
- (e) Overcurrent Protection: Each unit shall have its own panel board for all electrical circuits which serve the unit.
- (f) Impact Sound Insulation: Wall and floor-ceiling assemblies shall conform to the sound installation performance criteria promulgated in Title 25, California Administrative Code, Section 1092, or its successor, and may be only replaced by another floor covering that provides the same or greater insulation.

54.19-6 Condominium Conversions

Prohibition of Discrimination Against Prospective Buyers with Children:

In no case shall a project which can reasonably accommodate children, as determined by the Planning Commission, limit initial sales to households or individuals without children.

54.19-7 Condominium Conversions

Protection of Tenant Rights:

Approval of a Conditional Use Permit for Condominium Conversion is subject to the City Council finding that the requirements of Section 66427.1 (a) and (b) of the California Subdivision Map Act have been completed in accordance with State Law. Said Sections deal with

- (a) notice to tenant(s) of intention to convert, and
- (b) tenant(s) exclusive right to purchase their unit(s) upon the same terms and conditions that such unit(s) will be initially offered to the general public or terms more favorable to the tenant(s).

54.20 Density Bonus for Affordable Housing Developments (entire section)

54.20-1 Purpose

The Density Bonus regulations are intended to encourage the provision of affordable housing in the community by granting density bonuses and other incentives to developers of residential projects that construct or otherwise provide for housing units that will be available for purchase or rent by senior citizens and lower income persons and households. The Density Bonus provisions are applicable in all zoning districts that allow residential development. This Ordinance is adopted in conformance with Chapter 4.3 of Title 7 of the Government Code, Section 65915.

54.20-2 Density Bonus Authorization

The City Council, after recommendation by the Planning Commission, may authorize an increase in allowable dwelling unit density for those residential projects that assist in meeting the lower income or senior housing needs of the community. When the Planning Commission and Council make a finding that a developer has complied with the requirements of Subsections 54.20-3 and 54.20-9, the City Council, after recommendation by the Planning Commission, may award a density increase, with the approval of the project. The applicant shall submit site and architectural plans for the project (per Section 42.04 of this Chapter) for review and approval in conjunction with the Planning Commission and City Council consideration of the Density Bonus application. The Planning Commission shall hold at least one public hearing, prior to making its recommendation to the City Council. Upon receipt of the recommendation of the Planning Commission, the City Council shall hold at least one public hearing, prior to any final action on an application. Notice of hearing shall be given in accordance with the provisions of Section 64 of this Chapter.

54.20-3 Density Bonus Conditions

- A. When a developer of housing agrees or proposes to construct at least:
 - (1) twenty (20%) percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the California Health and Safety Code; or
 - (2) ten (10%) percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety code; or
 - (3) fifty (50%) percent of the total dwelling units of a

housing development for senior citizen housing, as defined in Section 51.2 of the California Civil Code, the City shall either:

- (1) Grant a density bonus and at least one concession or incentive, as defined in Subsection 54.20-4, unless the City makes a written finding that the additional concession or incentive is not required in order to provide for affordable housing costs or for rents for the targeted units to be set as specified in Subsection 54.20-10; or
 - (2) Provide other incentives of equivalent financial value based upon the land cost per dwelling unit.
- B. If a developer agrees to construct both twenty (20%) percent of the total units for lower income households and ten (10%) percent of the total units for very low income households, the developer is entitled to one density bonus and one additional concession or incentive.
- C. Additional bonuses, concessions and/or incentives may be granted by the City Council after recommendation of the Planning Commission or upon finding that the project provides a greater percentage of units for lower income households than those described in Subsection 54.20-3A and B. The regulations in this Section do not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land by the City, or the waiver of fees or dedication requirements.

54.20-4 Definitions

- A. For the purposes of Subsections 54.20-3A and B, "density bonus" means a density increase of at least twenty-five (25%) percent over the otherwise maximum allowable residential density specified for the applicable zoning or overlay district (including Section 54.07-6(c) of this Chapter and Resolution No. 3489, as amended from time to time). The density bonus shall not be included when determining the number of housing units which is equal to ten or twenty (10 or 20%) percent of the total.
- B. For the purposes of this Section, concession or incentive means any of the following:
- (1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements which exceed the minimum building standards approved by the State Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not

limited to, a reduction in lot size, lot dimensions and building setbacks, and in the ratio of vehicular parking spaces that would otherwise be required.

- (2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial or other land uses will reduce the cost of the housing development, and if the commercial, office, industrial or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
- (3) Other regulatory incentives or concessions proposed by the developer or the City which result in identifiable cost reductions.

C. For purposes of this Section, "Housing Development" means one or more groups of projects for residential units constructed in the planned development of the City.

54.20-5 Determination of Maximum Allowable Densities

The maximum allowable density per gross acre (prior to applying the density bonus) shall be as specified in the Milpitas Zoning Ordinance for the applicable zoning or overlay district or PUD process, as listed in Sections 8.05-2 (R4 district), 22.04-7 (TC district), 38.05-4 (MXD district), 43.05 (TOD overlay district), and 54.07-6(c) (PUD process for R3 district) of this Chapter, and in City Council Resolution No. 3489 as amended from time to time (R1, R2 and R3 districts).

54.20-6 Applicability

The density bonus referred to in this Section shall apply to housing developments consisting of five or more dwelling units.

54.20-7 Unit Type and Location

All inclusionary (affordable) units shall be reasonably dispersed throughout the project, shall contain on average the same number of bedrooms as the non-inclusionary units in the project, and shall be comparable with the non-inclusionary units in terms of appearance, materials and finished quality. The Planning Commission may recommend to the City Council modifying the requirements as to unit size or type, if it is found that such a modification would better serve the affordable housing need of Milpitas.

54.20-8 Agreement

Prior to final building inspection and occupancy for a project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements. The agreement shall be approved by the Milpitas City Attorney prior to recordation.

54.20-9 Retaining Affordability

A developer shall agree to, and the City shall insure continued affordability of, all lower

or very low income density bonus units for thirty (30) years or a longer period of time, if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. If the City does not grant at least one (1) additional concession or incentive, in addition to a density bonus as specified in Subsection 54.20-3, the developer shall agree to, and the City shall ensure continued affordability for a minimum of ten (10) years of all lower or very low income housing units receiving a density bonus.

54.20-10 Affordable Rents

Those units targeted for lower income households, as defined in Section 50079.5 of the Health and Safety Code shall be affordable at a rent that does not exceed thirty (30%) of sixty (60%) percent of the Santa Clara County median income. Those units targeted for very low income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed thirty (30%) of fifty (50%) percent of County median income.

54.22 Second family unit

Any application for second family unit that meets the following criteria shall be approved ministerially without discretionary review or public hearing. One second family unit may be allowed per lot, subject to all of the following criteria:

1. The lot is residentially zoned and contains only one (1) existing, legal single-family dwelling unit. A maximum of one (1) second family unit shall be permitted on any lot.
2. The second family unit shall not be sold to a different owner than the main residence, and may be rented.
3. If attached to the main dwelling, the second family unit shall comply with the same building height, setback, rear yard coverage and lot coverage requirements and limitations as the main dwelling.
4. An attached second family unit shall be located within the living area of the existing dwelling. "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage.
5. The increased floor area of an attached second family unit in a non-Hillside combining district shall not exceed thirty (30%) percent of the existing living area, not to exceed four hundred seventy-five (475) square feet in size.
6. A detached second family unit in a non-Hillside combining district shall be located on the rear half of the lot, shall not exceed fifteen (15) feet in height, and shall be no closer than six (6) feet, and no farther than one hundred (100) feet, from the main dwelling. It shall conform to the same yard setback and rear yard coverage regulations applicable to accessory buildings and structures, as per Subsection 54.09 of this Chapter.
7. The increased floor area of an attached second family unit in the Hillside combining district shall not exceed thirty (30%) percent of the existing

living area, not to exceed one thousand two hundred (1,200) square feet in size. However, in no case shall the overall building size exceed that allowed in Section 45 of this Chapter.

8. A detached second family unit in the Hillside combining district shall not exceed seventeen (17) feet and one (1) story from finished grade to the highest ridgeline of the building, and it shall not exceed one thousand two hundred (1,200) square feet in size. It shall be located on the rear half of the lot, and shall be no closer than six (6) feet, and no farther than one hundred (100) feet, from the main dwelling, shall not cover more than thirty (30%) percent of the required rear yard, shall conform to the side yard setback requirements as the main dwelling, and shall count towards the maximum allowed impervious surface coverage for the parcel on which it is located.
9. A second family unit which is an efficiency unit, as defined Section 17958.1 of the State Health and Safety Code, shall not contain less than one hundred fifty (150) square feet.
10. The second family unit shall not have more than one (1) bedroom or more than one (1) kitchen.
11. The second family unit shall provide one (1) more off-street parking space than required for a single-family dwelling. This additional parking space may be tandem and within the required front yard so long as it is located on the driveway serving the main dwelling. Front yard coverage requirements in the R1 zoning district shall apply. No parking shall be permitted on the street side yard of a corner lot. Covered parking shall comply with the requirements in Subsection 54.09 of this Chapter. Parking space shall measure ten (10) feet by twenty (20) feet, and be improved as provided in Subsection 54.03 of this Chapter.
12. Local building codes shall apply to additions to existing single-family dwellings, as well as to detached second family units, as appropriate.
13. A permanent foundation shall be required for all second family units.
14. One (1) of the two (2) units shall be occupied by the owner of the property at the time of application submittal.
15. Any construction shall conform to site and architectural plan review, fees, charges and other zoning requirements applicable to residential construction in the zone in which the property is located.
16. The second family unit shall be designed to be architecturally compatible and visually integrated with the main dwelling. It shall employ design, materials and colors matching those of the main dwelling.
17. Second family units shall not be allowed where roadways, public utilities and services are inadequate, as determined by City staff, based on the City's adopted sewer and water master plans. If City staff believe that an additional residential unit will impact traffic flow along the residential street on which the unit is proposed, the applicant shall provide a traffic impact analysis for

staff review. The applicant shall comply with the recommendations contained in the traffic impact analysis.

A second family unit which conforms to the requirements of this section shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot. The second family units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

Section 63 – Enforcement and Penalty

63.07 Administrative Citations

When he or she determines that one or more violations of this Chapter have occurred, the City Manager and his/her designee may issue administrative citations pursuant to the procedures set forth in sections V-500-8.00 through V-500-8.06. Where the violation is a continuing violation that does not create an immediate danger to public health and safety, the citation shall set forth a reasonable period of time, which shall not be less than 15 days, for the person responsible for the continuing violation to correct or otherwise remedy the violation prior to the imposition of the administrative fine.

The schedule of fines for administrative citations issued for violations of this Chapter is as follows:

1. Not to exceed \$100 for the first violation
2. Not to exceed \$200 for the second violation of the same code provision within twelve (12) months; and
3. Not to exceed \$500 for the third violation of the same code provision within twelve (12) months.

Each person that fails to pay any fine set out in an administrative citation issued pursuant to this section shall be liable for a late payment charge of 10%.

SECTION 4. The following Sections of Title XI Chapter 10 (Zoning, Planning and Annexation) of the Milpitas Municipal Code are hereby *amended by the modifying existing subsections* which are to read as follows:

Section 2 – Definitions

2.03 Accessory Building or Use

A subordinate building or use, whose purpose is clearly incidental to that of the main building or the use of the land, and which shall not contain living or sleeping quarters or storage for commercial vehicles in excess of ¾ ton size. Second family units, as defined in Subsection 2.69.1, are exempted from the prohibition against living and sleeping quarters. An accessory building shall be considered attached to the main building if:

- (1) it shares a common wall with the main building, or

- (2) it shares an integral roof structure having the same framing system and roof covering as the main building and is separated from the main structure by no more than ten (10) feet at any given point.

2.26-1.4 Class A Office Space

A high quality, modern building with large floor plates and amenities that typically attracts rents in the top twenty-five percent (25%) bracket.

2.26-2 Commercial Fueling Facility

"Commercial fueling facility" is a fueling facility designed for commercial customers which dispenses gasoline, diesel, or similar vehicle fuels, and which is not open to the general public, has no cash sales and provides no personal services on-site, provided that said facility is located not closer than five hundred (500) feet from any residentially zoned district or any area designated on the General Plan as being "residential" or any mobile home park.

2.26-3 Class A Office Space

A high quality, modern building with large floor plates and amenities that typically attracts rents in the top twenty-five percent (25%) bracket.

2.26-4 Condominium

"Condominium" is an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store. A condominium may include in addition a separate interest in other portions of such real property. Such estate may, with respect to the duration of its enjoyment, be either of the following:

1. An estate of inheritance or perpetual estate.
2. An estate of life.
3. An estate for years, such as leasehold or sub-leasehold.

2.26-5 Condominium Conversion

"Conversion" is a change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined for a condominium project or a community apartment project regardless of the present or prior use of such land and structures and whether substantial improvements have been made or are to be made to such structures.

2.26-6 Commercial Athletic Facility

A building or site equipped for physical training or athletic type games and sports, such as but not limited to, health spas, tennis, gymnasiums, handball courts, racquetball courts; also including ancillary uses when incidental to the primary use, such as but not limited to, steam baths, weight training, aerobic classes, massage, saunas, and the retailing of athletic supplies to be used in the facility.

2.26-7 Commercial Service

Establishments which provide non-medical services of a retail character to patrons which may involve the sale of goods associated with the service being provided. These establishments include businesses that provide both personal and business services, but not industrial services.

Any assembly, processing or customization of products on the premises must be incidental and integral to the retail sale of the product. All such completed products must be sold on the premises and may not be distributed to another location for future retail sale or wholesale or for storage to be shipped to another location where the product is sold. This restriction shall not preclude the sale of completed products that are delivered or shipped to the retail customer. The total floor area devoted to assembly, processing, customization and packaging of products sold on the premises shall be less than half the area devoted to sales and display of the completed product.

Examples of establishments covered by this designation include floral shops, barber and beauty shops, shoe repair shops, self-service laundries, tuxedo rental shops, dry-cleaners, tailors, interior decorators, accountants, architects, photocopy shops, and mail box rentals. Examples of establishments not covered by this designation include any dry cleaning plants, metal shops, machine shops, welding shops, and any customer fabrication or machinery repair shops.

2.36 Dwelling, Group

One (1) or more dwellings, other than a tourist court, arranged around two (2) or three (3) sides of a court, which opens onto a street, or a place approved by the commission, including single-family, two-family or multiple-family dwellings and court apartments. Group dwelling include homeless shelters and transitional housing.



2.38-1 Family Child Care Homes

A home in which care, protection, and supervision of fourteen (14) or fewer children is regularly provided, in the care giver's own home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away. Such homes are licensed by the State of California and include the following:

- a) "Large family child care home" which means a home in which family child care is provided to nine (9) to fourteen (14) children, including children under the age of ten (10) who reside at the home.
- b) "Small family child care home" which means a home in which family day care is provided to eight (8) or fewer children, including children under the age of ten (10) who reside at the home.

2.38-2 Floor Area Ratio

Floor Area Ratio (FAR) is defined for non-residential Zoning Districts as the maximum permitted ratio of gross floor area (as defined in Section 2.41-1.2) to site area and is calculated as follows:

$$\text{FAR} = \frac{\text{Total of Gross Floor Area for All Structures on Site}}{\text{Site Area}}$$

Increases above the maximum permitted FAR for any district can be allowed with approval of a Use Permit by the Planning Commission. This can be considered when the applicant can demonstrate that the proposed development will (1) generate low peak-hour traffic; (2) will not create a dominating visual prominence. Examples of such uses include wholesaling, distribution and hospitals. In each case where an increase in the maximum permitted FAR has been allowed, all other development standards for the site must be met.

2.41-1.2.1 Gross Floor Area

The total of all floors measured from the interior faces of the building, but not including areas for parking which are wholly underground, such as basements, unroofed inner courts or shaft enclosures unless any outdoor areas are used for retail purposes. An exception is made for all districts within the Midtown Plan Area in which all areas within the building(s) devoted to parking shall be excluded.

2.58-1.3 Mobile Home

A transportable structure designed to be used as a dwelling unit when connected to required utilities.

2.67(c) Quasi-Public Use

A use intended to serve the whole city and/or region and are operated by a private, non-profit, educational, religious, recreational, charitable, or medical institution, and having the purpose primarily of serving the general public. Such uses include religious facilities, private schools, community theaters, community and club organizations, private hospitals, places of assembly and the like.

2.67-1 Recyclable Material

Recyclable material is reusable material including but not limited to metals, glass, plastic and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material does not include refuse or hazardous materials. Recyclable material may include used motor oil collected and transported in accordance with the California Health and Safety Code.

2.69-1 Second Family Unit

An attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes an efficiency unit, as defined in Section 17958.1 of the State Health and Safety Code, and a manufactured home, as defined in Section 18007 of the State Health and Safety Code. Refer to Subsection 54.22 of this Chapter for development standards.

2.69-2 Slope

Same as "Natural Land Slope".

2.69-3 Slope Stability

Slope stability is the relative ability of slopes to retain their frictional resistance to downslope movement.

2.79 Yard

An open space, other than a court, on a lot, unoccupied and unobstructed, except by eaves, from the ground upward, except as otherwise provided in this Chapter. Where applicable, yards shall be measured perpendicularly from the property line to the face of the nearest exterior wall of any main building, except as otherwise provided in this Chapter (See Section 55.04.11). Setback shall be synonymous with yard.

2.81 Yard, Rear

A yard extending across the full width of the lot between the most rear main building and the rear lot line; the depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line toward the nearest exterior wall of the main building.

2.82 Yard, Side

A yard between the main building and the side lot line extending from the front yard, or front lot line where no front yard is required, to the rear yard; the width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest exterior wall of the main building.

Section 3 – Zoning Districts

3.02 Combining Regulations

In addition to the foregoing districts certain combining regulations are established as set forth in this Chapter, said combining regulations being as follows:

<u>Full Name</u>		<u>Short Name</u>	
"S"	Special Zoning Area	"S"	District
"MHP"	Mobile Home Park Combining District	"MHP"	District
"TOD"	Transit Oriented Development Combining District	"TOD"	District
"OO"	Gateway Office Overlay Combining District	"OO"	District
"H"	Hillside Combining District	"H"	District

Section 4 – "R1" Single family Residence District

4.03-5 Accessory Uses

Small family child care home.

4.04-5 Conditional Uses

Guest house, subject to the criteria listed in Subsection 2.41.2 of this Chapter and to the following: Guest House shall be on a parcel two (2) acres or larger, located on the rear half of the lot, shall not cover more than thirty (30%) percent of the required rear yard, and shall conform to the side yard setback requirements of the principal building. Additionally, guest houses in the "H" Combining district shall be counted towards the

maximum allowed impervious surface coverage for the lot, and shall not exceed seventeen (17) feet in height measured from a warped plane parallel to the finished grade.

4.04-6 Conditional Uses

Child care center.

Section 6 – “R2” One and Two Family Resident District

6.03-5 Accessory Uses

Small family child care home

6.04-6 Conditional Uses

Child care center

Section 7 – “R3” Multi-Family High Density District

7.03-5 Accessory uses

Small family child care home

7.04-4 Conditional Uses

Child care center

7.09-1 Automobile parking and loading areas

For Multiple-Family dwellings, there shall be provided at the time of erection of a new dwelling or an addition to an existing dwelling at least two (2) permanent automobile off-street parking spaces for each dwelling unit plus additional guest spaces equal to twenty (20) percent of the total amount required in a Multiple-Family dwelling. All required parking spaces shall be located to the rear of the front setback line.

Section 8 – “R4” Multi-Family Very High District

8.03-4 Accessory Uses

Small family child care home.

8.04-3 Conditional Uses

Child care centers.

8.04-8 Conditional Uses

Condominium conversion, subject to the regulations set forth in Section 54.19.

Section 17 – “CO” Administrative and Professional Office District

17.04-9 Conditional Uses

Small and large family child care home, and child care center. Refer to Subsections 53.23-6 through 53.23-8 and 54.16 for standards.

Section 18 – “C1” Neighborhood Commercial District

18.03-4.1 Conditional Uses

Small and large family child care home, and child care center. Refer to Subsections 53.23-6 through 53.23-8 and 54.16 for standards.

18.04-2 Development Standards

Front Yards. Twenty (20) feet.

Section 19 – “C2” General Commercial District

19.02-26 Principal Permitted Uses

Offices: business, professional, administrative, medical, dental etc.

19.03-9.1 Conditional Uses

Small and large family child care home, and child care center. Refer to Subsections 53.23-6 through 53.23-8 and 54.16 for standards.

Section 21 – “HS” Highway Service District

21.03-5.1 Conditional Uses

Small and large family child care home, and child care center. Refer to Subsections 53.23-6 through 53.23-8 and 54.16 for standards.

Section 22 – “TC” Town Center District

22.04-3.1 Conditional Uses

Small and large family child care home, and child care center. Refer to Subsections 53.23-6 through 53.23-8 and 54.16 for standards.

22.04-7 Conditional Uses

Residential developments of between one (1) and twenty (20) dwelling units per gross acre, provided that the Commission makes a finding that the location of such a use is appropriate and in conformance with the purpose and intent of the Town Center District specified in Section 22.01 above.

22.04-6 Conditional Uses

Public and quasi-public uses, as defined in section 2.67 (b) and 2.67 (c), appropriate to or customarily located in the “TC” District and intended to serve the whole City and/or region.

Section 35 – “MP” Industrial Park District

35.02-6 Principal Permitted Uses

Medical, dental or research offices, clinics, and laboratories.

35.04-5.2 Conditional Uses

Halls for Banquets, etc.; provided that the portion of any such facility actually used for banquets, etc. as opposed to being used for parking, is located not closer than five hundred (500) feet from any residentially zoned district or any area designated on the General Plan as being residential.

Section 38 – “MXD” Mixed Use District

38.02-3 Principal Permitted Uses

Medical or dental offices and clinics.

38.02-5 Principal Permitted Uses

Small family child care home.

38.03-1(I) Conditional Uses

Child care centers. Refer to Subsections 53.23-6 through 53.23-8 and 54.16 for standards.

38.05-4 Development Standards

Multi-Family Residential Density. Residential development shall be a minimum of twenty-one (21) dwelling units per gross acre and shall not exceed thirty (30) dwelling units per gross acre. The minimum number of multi-family residential units may be reduced for parcels less than twenty thousand (20,000) square feet.

38.06-3 Off-Street Parking

Residential Uses.

- (a) Multiple family dwelling units, mixed use developments and live-work units there shall be at least the following:
 - (1) Studio: one (1) covered automobile stall per unit.
 - (2) One (1) bedroom: one and one-half (1½) covered automobile stalls per unit.
 - (3) Two (2) or more bedrooms: two (2) covered automobile stalls per unit.
 - (4) Guest parking: fifteen percent (15%) of automobile stalls required in (1) through (3) above. May be covered or uncovered.
 - (5) Bicycle parking: five percent (5%) automobile stalls required in (1) through (4) above.
- (b) Parking space dimensions shall be as follows:
 - (1) Standard parking spaces shall be a minimum of nine (9) feet wide by eighteen (18) feet long.

- (2) Compact parking spaces shall be a minimum of 7.5 feet wide by 15 feet long. When compact parking spaces are used in garages with more than two spaces, each space shall be marked as compact and shall be assigned and marked for resident use.
- (3) Tandem parking spaces shall be a maximum of two (2) parking spaces deep.
- (c) Tandem parking is not allowed for non-residential uses or guest parking. When tandem parking spaces are used in garages with more than two (2) parking spaces, they shall be assigned and marked for resident.
- (d) A maximum of forty (40) percent of parking may be compact parking spaces. No compact parking spaces are allowed for non-residential uses or guest parking.

Section 40 – “A” Agricultural District

40.04-2.1 Conditional Uses

Small and large family child care home, and child care center. Refer to Subsections 53.23-6 through 53.23-8 and 54.16 for standards.

Section 42 – “S” Combining District

42.10-2 Minor Modifications Subject to Approval by Planning Commission Subcommittee or Planning Division Staff

(A) Roof Screens, Roof-Top Equipment

Planning Staff can approve:

- (3) Roof-top equipment which exceeds the height of existing roof screens, if line-of-sight drawings demonstrate that the equipment will not be visible from surrounding “worst case” view points, including public and private rights-of-way and private properties.

Planning Commission Subcommittee may approve:

- (1) Note: Only the Planning Commission may approve roof-top equipment which exceeds the height of existing roof screens, if line-of-sight drawings demonstrate that the equipment will be visible from surrounding “worst case” view points, including public and private rights-of-way and private properties.

(B) Building Color Changes

Planning Staff can approve:

- (1) Color changes for all buildings outside of the Hillside combining district and PUD’s, so long as the proposed colors are earth tone, muted and/or compatible with the surrounding area and development. However, no color

changes may be approved for designated historical or cultural resource structures.

Planning Commission Subcommittee may approve:

- (1) Color changes for residences within the Hillside combining district, including homes within a PUD which does not specify color choices, so long as the proposed colors are earth tone, muted and compatible with the surrounding development. Applicant shall submit letter of support from applicable homeowners association.
- (2) No color changes may be approved for designated historical or cultural resource structures.

(C) Re-Roofs

Planning Staff can approve:

- (1) Re-roofs for flat roofs, behind parapets, which are not visible from surrounding view points.
- (2) Re-roofs which use the same material as previously approved. Replacement of wood shake roofs may only be approved by the Planning Commission.
- (3) Change in roof material for buildings within a PUD, including Hillside PUD's, so long as the proposed roof material complies with any listed development standards of that PUD. Other materials, such as metal and tri-laminate asphalt composition, may be used in lieu of listed roof material so long as it mimics the material required.
- (4) Change in roof material for all Residential Valley Floor "S" combining districts and R1-H lots, regardless of lot size, to all types of materials. However, wood shake, non tri-laminate asphalt composition and metal roof material that is reflective, corrugated or standing seam may only be approved by the Planning Commission.

Planning Commission Subcommittee may approve:

- (1) Change in roof material for buildings in Commercial, Industrial and Mixed Use districts. However, wood shake, non tri-laminate asphalt composition and metal roof material that is reflective, corrugated, or standing seam may only be approved by the Planning Commission.

(D) Minor Exterior Building Changes, Including But Not Limited to, Doors, Entryways, Patios and Patio Covers, Walkways, ATM's, Awnings, Loading Areas

Planning Staff can approve:

- (1) In Commercial, Industrial and Mixed Use districts, and for commercial uses in TOD districts, minor exterior building changes as described below, provided that the project complements the colors, materials and design of the building, with no loss of required parking, no net reduction in the

number of on-site trees and no loss of protected trees as defined in Section X-2.00: *(note: no changes proposed to subsections a-h)*

- (3) Minor exterior building changes for residences within Hillside combining district PUD's which are specifically conditioned to allow a staff approval process for alterations subsequent to initial construction of the home.

Planning Commission Subcommittee May Approve:

- (1) In Commercial, Industrial and Mixed Use districts, and for commercial uses in TOD districts, minor exterior building changes as described below, provided that the project complements the colors, materials and design of the building, with no loss of required parking, no net reduction in the number of on-site trees and no loss of protected trees as defined in Section X-2.00: *(note: no changes proposed to subsections a-e)*
- (2) In the Hillside combining district, minor exterior building changes as described below, provided that the project complements the colors, materials and design of the building. *(note: no changes proposed to subsections a-b)*

(E) Landscape Changes

Planning Staff May Approve:

- (1) Replacement planting of similar landscape materials and addition of landscaping. Landscaping shall comply with Ordinance No. 238 (water efficient landscape regulations). Landscaping within the "H" combining district shall comply with City Council Resolution No. 6066.
- (2) Deletion of non-required landscaping up to 200 square feet in area to accommodate modifications to existing developed sites. However, in Commercial, Industrial and Mixed Use districts, and for conditional uses within Residential Valley Floor "S" combining districts, no net reduction in the number of on-site trees and no loss of protected trees, as defined in Section X-2.00 of the Milpitas Municipal Code, may be approved.

Planning Commission Subcommittee May Approve:

- (1) Deletion of non-required landscaping exceeding 200 square feet in area, to accommodate modifications to existing developed sites. However, in Commercial, Industrial and Mixed Use districts, and for conditional uses within Residential Valley Floor "S" combining districts, no net reduction in the number of on-site trees and no loss of protected trees, as defined in Section X-2.00 of the Milpitas Municipal Code, may be approved.

(F) Exterior Lighting

Planning Staff May Approve:

- (1) New light standards and wall-mounted light fixtures within Commercial, Industrial and Mixed Use districts on those sites which do not involve or

about Residential or Mobile Home Park combining districts or uses. New light fixtures shall match existing on-site light fixtures in terms of height, style, design and wattage, and shall be spaced appropriately to maximize pedestrian safety.

G) Parking Revisions, Restriping

Planning Staff May Approve:

- (1) Parking lot restriping, including deletion of stalls, in all Valley Floor "S" combining districts, provided that minimum parking ordinance requirements are met, except as provided in Section XI-10-54.15-3 of the Milpitas Municipal Code (recycling areas). However, there shall be no reduction in number of parking spaces if the site contains restaurants or banks. The following requirements shall apply:
 - a. In Commercial, Industrial, Mixed Use, R3 and R4 districts, new driveways from public rights-of-way may not be approved.
 - b. No net reduction in the number of on-site trees and no loss of protected trees, as defined in Section X-2.00 of the Milpitas Municipal Code, may be approved to accommodate parking revisions.

H) Fences, Walls

Planning Staff May Approve:

- (1) Fences in Commercial and Industrial districts, which comply with height and openwork construction requirements listed in Section XI-10-54.11 of the Milpitas Municipal Code (Fences), and which comply with the following:
(note: no changes proposed for subsection a-d)

Planning Commission Subcommittee May Approve:

- (1) Fences in the Mixed Use District which meet the height and openwork construction requirements listed in Section XI-10-54.11 of the Milpitas Municipal Code (Fences). Any fencing/gates in parking lots requires clearance by the City's Fire Department.
- (2) Chain link perimeter fencing in Commercial and Industrial districts, which comply with the following:
 - a. Fencing shall be at the rear or interior side of the site.
 - b. The fencing shall consist of vinyl clad chain link with or without vinyl slats. Type of chain link fencing (i.e. deletion of vinyl clad requirement, use of slats) shall be to the discretion of the Planning Commission Subcommittee (i.e. in circumstances where the proposed fencing is to continue a line of existing chain link fencing).
 - c. Fencing material and color shall be compatible with surrounding development.
 - d. Parking lot fencing/gates shall be cleared by the City's Fire Department.

(I) Building Additions

Planning Staff May Approve:

- (1) Residential building additions for legal, conforming single-family and two-family dwellings in the Valley Floor Residential "S" combining districts, and for legal, non-conforming residences in the R1 and R2 "S" Combining districts, and for legal conforming or non-conforming single-family dwellings in Hillside PUD's which specifically allow for staff approval, provided building height, parking, setback, yard coverage, impervious surface coverage, landscaping, open space and other ordinance requirements are met (refer to Section 56.03 of this Chapter regarding non-conforming buildings). The following shall also apply:
 - a. The building addition shall be on the rear half of the building and shall not exceed 200 square feet in size.
 - b. The applicant shall provide the Planning Division with written, signed consent of adjoining residential property owners and applicable homeowners association.
 - c. Existing front yard paving shall be brought into conformance.
 - d. The addition shall comprise building materials, colors and style which complement the existing structure.
- (2) Building addition to an existing legal conforming or non-conforming single-family dwelling in the R1, R2, R3, R4, MXD and "H" combining districts, in order to accommodate a second family unit, as defined in Subsection 2.69.1 of this Chapter. The development standards listed in Subsection 54.22 of this Chapter shall apply.

Planning Commission Subcommittee May Approve:

- (1) Commercial and Industrial building additions for legal, conforming buildings, provided that the site is not adjacent to a Residential or Mobile Home Park combining district or use, and that building height, parking, setback, yard coverage, Floor Area Ratio, landscaping, open space and other ordinance requirements are met. Size of building addition shall not exceed 5,000 square feet or ten percent (10%) of the existing building gross floor area, which-ever is less. Calculation shall cumulatively count all additions or enlargements completed since June 20, 2003. The following shall also apply: *(note: no changes proposed to subsections a-c)*
- (2) Residential building additions exceeding 200 square feet in size for legal, conforming single-family and two-family dwellings in the Valley Floor Residential "S" combining districts, and for legal, non-conforming residences in the R1 and R2 district "S" Combining districts, and for legal conforming or non-conforming single-family dwellings in Hillside PUD's which are specifically conditioned not to require Planning Commission or City Council review for building additions, provided building height, parking, setback, yard coverage, impervious surface coverage, landscaping, open space and other ordinance requirements are met (refer to Section 56.03 of this Chapter regarding non-conforming buildings). The following shall also apply:

- a. The applicant shall provide the Planning Commission Subcommittee with written, signed consent of adjoining residential property owners and applicable homeowners association.
- b. Existing front yard paving shall be brought into conformance.
- c. The addition shall comprise building materials, colors and style which complement the existing structure.

Note: For a building addition accommodating a second family unit as defined in Subsection 2.69.1 of this Chapter, Planning staff has approval authority, as per Subsection 42.10-2.1.2 of this Chapter.

J) Accessory Buildings

Planning Staff May Approve:

- (1) Accessory buildings in the Residential Valley Floor “S” combining districts, provided building height, parking, setback, yard coverage and other ordinance requirements are met. The following shall also apply:
 - a. Accessory buildings for conditional uses in Residential R1 and R2 districts and for permitted and conditional uses in R3 and R4 districts shall comprise building materials, colors and style which complement the existing main structure.
 - c. The applicant shall provide the Planning Division with written, signed consent of adjoining residential property owners and applicable homeowners association.
- (2) Accessory building in the R1, R2, R3, R4, MXD and “H” combining districts in order to accommodate a second family unit, as defined in Subsection 2.69.1 of this Chapter. The development standards listed in Subsection 54.22 of this Chapter shall apply.

Planning Commission Subcommittee May Approve:

- (1) Accessory buildings up to 2,500 square feet in area in Commercial, Industrial and Mixed Use districts, provided that the proposed structure is not adjacent to a Residential or Mobile Home Park combining district or use, and provided that building height, parking, setback, yard coverage, Floor Area Ratio, landscaping, open space and other ordinance requirements are met. The following shall also apply: *(note: no changes proposed to subsections a-d)*

(k) Trash/Recycling Enclosures, Transformers, Above Ground Tanks, Exterior Equipment, Equipment Enclosures and Storage Areas)

Planning Staff May Approve:

- (1) Trash/recycling, equipment or storage enclosures up to 200 square feet in size in Commercial, Industrial and Mixed Use districts, proposed at the rear

of the building or lot and where least visible from public rights-of-way, and which comply with the following: *(note: no changes proposed to subsection a-h)*

- (3) Above ground transformers, tanks and other exterior equipment in Commercial, Industrial and Mixed Use districts, which are located at the rear of the building or lot and which comply with the following:
 - a. Equipment shall not be approved adjacent to a Residential or Mobile Home Park combining district or use.
 - b. Equipment shall be completely screened from view by dense shrubbery, masonry wall such as split face block or masonry finished to match the building, or other solid screening material utilizing colors and materials which complement the building. Chain link fencing with or without slats may not be approved in the Mixed Use district, but may be approved in the Commercial and Industrial districts if it is an expansion of an existing approved chain link enclosure and it is not visible from public viewing points (see #2 above).
 - c. On the street side of corner lots, the equipment and its screening must be set back at least as far as the main building.
 - d. On-site parking shall meet minimum standards.
 - e. No net reduction in the number of on-site trees and no loss of protected trees, as defined in Section X-2-7.01 of the Milpitas municipal Code, may be approved to accommodate a tank, transformer or equipment.
 - f. In Commercial and Industrial districts, the installed height of the transformer, tank or equipment shall not exceed ten (10) feet. In the Mixed Use district, the installed height shall not exceed six (6) feet.
- (4) Temporary contractor's office trailers and construction related storage trailers in undeveloped and developed sections of the City, which comply with the following:
 - a. The location of such trailers shall not obstruct driveways or traffic access aisles; the applicant shall demonstrate that parking will not be negatively impacted.
 - b. The colors and materials shall complement the main building, if one exists.
 - c. Any exterior noise-generating equipment associated with trailers shall not be within 300 feet of a Residential or Mobile Home Park combining district or use.
 - d. The trailers shall be removed upon cessation of permitted construction activity.

Planning Commission Subcommittee May Approve:

- (1) Trash/recycling, equipment or storage enclosures exceeding 200 square feet in size in Commercial, Industrial and Mixed Use districts and enclosures for conditional uses in Valley Floor Residential "S" combining districts. The following shall apply: *(Note: no changes proposed for subsections a-h)*

- (3) Above ground transformers, tanks, and other exterior equipment in Commercial, Industrial and Mixed Use districts and for conditional uses in Valley Floor Residential "S" Combining districts. The following shall apply:
 - a. The equipment shall be set back from adjacent streets as least as far as the main building and shall be screened from view by dense shrubbery, masonry wall such as split face block or masonry finished to match the building, or other screening material utilizing colors and materials which complement the building. In Commercial and Industrial districts, the Subcommittee shall have the discretion to approve vinyl clad chain link fencing with or without matching vinyl slats, depending on the visibility of the location.
 - b. On-site parking shall meet minimum standards.
 - c. No net reduction in the number of on-site trees and no loss of protected trees, as defined in Section X-2-7.01 of the Milpitas Municipal Code, may be approved to accommodate a tank, transformer or other equipment.
 - d. In Commercial and Industrial districts, installed height of the transformer, tank or equipment shall not exceed the building height. Exception: Equipment exceeding building height may be approved if it is proposed at the rear of the building, and the applicant can demonstrate with line-of-sight drawings that the equipment will not be seen from public viewing points. In the Mixed Use district, the installed height shall not exceed six (6) feet.
 - e. If adjacent to a Residential or Mobile Home Park combining district or use, installed height of the equipment shall not exceed six (6) feet.
 - f. Generators may not be approved if located adjacent to a Residential or Mobile Home Park combining district or use.
- (4) Temporary contractor's office trailers and construction -related storage trailers in undeveloped and developed sections of the City, when any of the following apply:
 - a. The location of such trailers obstructs or partially obstructs driveways and traffic access aisles.
 - b. Parking is negatively impacted.
 - c. The colors and materials do not complement the main building if one exists.
 - d. Any exterior noise-generating equipment associated with trailers are within 300 feet of a Residential or Mobile Home Park combining district or use.

Section 43 – "TOD" Transit-Oriented-Development Combining District

43.05-1 Development Standards

"MXD-TOD" Area.

- (a) Residential developments shall be a minimum of thirty-one (31) dwelling units per gross acre and shall not exceed forty (40) dwelling units per gross

acre. The minimum number of residential units may be reduced for parcels in the North Midtown Area that are less than twenty thousand (20,000) square feet

- (b) Residential building height shall not exceed four (4) stories and sixty (60) feet, including special architectural elements such as towers and spires.
- (c) The maximum FAR for non-residential buildings in the "MXD" District is one hundred percent (100%, or 1.0).

43.05-2 Development Standards

"R4-TOD" Areas.

- (a) Residential developments shall be a minimum of forty-one (41) dwelling units per gross acre and shall not exceed sixty (60) dwelling units per gross acre.
- (b) Residential building height shall not exceed five (5) stories and seventy-five (75) feet, including special architectural elements such as towers and spires.
- (c) The maximum FAR for ground floor non-residential uses developed in conjunction with very high density multiple family residential in the "R4-TOD" District is fifty percent (50%, or 0.5).

43.06-2 Off-Street Parking

TOD developments within a one-quarter (1/4) mile radius of the Northern BART station may only apply the twenty percent (20%) reduction once a decision on the location and viability of the Northern BART station has been made by the City Council.

Section 53 – Off Street Parking Regulations

53.07(e)(3) Joint Use

Conditions required for joint use:

- 1) The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use, shall be located within three hundred (300) feet of such facilities.
- 2) The applicant shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.
- 3) If joint use occurs between more than one parcel or in a condominium setting, a properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the City Attorney and recorded with the County Recorder. Joint use parking privilege shall continue in effect only so long as such an instrument, binding on all parties, remains in force. If such instrument becomes legally ineffective, then parking shall be provided as otherwise required by this Chapter.

53.23-3.3 Parking Schedule

Industrial Uses. Research and Development uses, uses oriented toward the "high tech", medical laboratories, or uses which have a high employee demand -- 1 sp/300 Sq. Ft. GFA.

53.23-4.1 Parking Schedule

Medical Buildings. Medical and dental offices and clinics -- 1 sp/225 Sq. Ft. GFA for each floor.

53.23-6 Parking Schedule

Child Care Uses:

- (1) Single family, duplexes and multi-family residences -- shall be the same number of spaces required in residential districts.
- (2) Child care facilities serving more than eight children -- 1 sp/1.5 employees.
- (3) Schools other than child care centers -- 1 sp/classroom or 1 sp/500 sq. ft. gross floor area.

53.23-7 Parking Schedule

Loading/Unloading Child Care Uses:

Child care facilities -- 1 sp/6 children up to 5 spaces and thereafter 1 sp/10 children. Driveways, garage aprons and street frontage may be counted if appropriate permits are first received when calculating spaces for child care homes. Tandem spaces are prohibited.

53.23-8 Parking Schedule

Exceptions for Child Care Requirements. The parking and loading/unloading space requirements for child care facilities included in Section XI-10-53.23-6 may, in the Planning Commission's discretion, be reduced, based on an empirical study (provided by the applicant) which establishes no adverse effects will occur as a result. The required number of loading/unloading spaces may be reduced without a study by one (1) space for each employee permanently assigned to load and unload children from vehicles.

Section 54 -- General Provisions

54.09 Accessory Buildings and Structures

All accessory buildings and structures, as well as building additions as described in Section 55.04-11, in the rear yard are limited cumulatively to a total area not exceeding thirty percent (30%) of the area of the required rear yard, except where noted below. Projection of eaves of accessory buildings and structures shall not be closer than 3 feet to any side or rear lot line.

54.09-11 Accessory Buildings and Structures

In-ground pools, in-ground spas, and associated decking no more than eighteen (18) inches above ground shall not come closer than 3 feet to any side or rear property line. These accessory structures are excluded from the 30% maximum allowed rear yard coverage.

54.16 Large Family Child Care Homes and Child Care Centers

54.16-1 Purpose

The purpose of provisions dealing with child care facilities is to allow regulation of such facilities to the extent provided herein. However, nothing is intended to allow regulation to a greater extent than allowed by State law.

54.16-2

Large family child care homes may be approved administratively by the Planning Division, provided that the applicant submits information to the Planning Division demonstrating compliance with applicable development standards listed in Subsection 54.16-4, and the applicant obtains approval from the Fire Department.

54.16-3

Child care centers shall require approval of a Conditional Use Permit by the Planning Commission, as per Section 57 of this Chapter. The applicable development standards listed in Subsection 54.16-4 shall be addressed in the Use Permit process.

54.16-4 Development Standards

54.16-4.1 Density

Large family child care homes shall be spaced at least three hundred (300) feet apart from each other. This spacing requirement does not apply to small family child care homes.

54.16-4.2 Off-Street Parking Requirements

There shall be provided off-street parking spaces for automobiles in accordance with the requirements of Section 53. All such parking spaces shall be improved as provided for in Subsection 54.03.

54.16-4.3 Hours of operation

For large family child care homes, hours of operation shall not occur before 6:30 A.M or after 7:30 P.M., in order to maintain compatibility with neighboring properties and limit noise during night-time hours. Hours of operation shall be determined through the Use Permit process and shall be based on compatibility with neighboring properties and other planning principles as set forth in Section 57 of this Chapter.

54.16-4.4 Fence Height

Outdoor play areas for child care centers shall be enclosed with a six-foot high fence. The fence type shall be compatible with neighboring properties and other planning principles as set forth in Section 57 of this Chapter.

54.16-5 Code Enforcement Procedures

If any large family child care home is operating in a manner that constitutes a nuisance, the child care facility operator shall work with the Planning Division to address the nuisance, through such actions as adjusting hours of operation, adjusting hours of outdoor

play, staggering times for child drop-off and pick-up, and the like. If any child care center is operating in a manner which constitutes a nuisance, the Planning Commission shall reopen the Use Permit to add or change conditions of approval addressing the issue(s). If the nuisance continues, the Planning Commission may review the Use Permit with a recommendation to the City Council pursuant to Section 63.06 (Revocation, Suspension and Modification).

Section 55 - Exceptions

55.02-3 Height

Structures Permitted Above Height Limit. Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building. Parapet walls, skylights, towers, process towers and columns, including appurtenant working structures, steeples, flagpoles, chimneys, smokestacks, wireless masts – provided such masts comply with Section 54.09-16 and Section 57.02-15.1, water tanks, gas tanks, silos, or similar structures may be erected above the height limits herein prescribed, but no penthouse or roof structure, or any space above the height limit shall be allowed for the purpose of providing additional floor space.

55.04-11 Projections Allowed Into Yards

Building additions into the required rear yard shall be allowed for all legal, conforming single-family and two-family dwellings in all Valley Floor Residential districts, when such dwelling has been constructed in accordance with law and a minimum period of one (1) year has elapsed since the final inspection as provided for in Title II of the Milpitas Municipal Code.

- (a) Such building additions may be allowed into the required rear yard so that the remaining rear yard set back (measured perpendicular to the rear lot line at any point) is not less than the exterior height of the rear wall of said building addition and shall not encroach into a public utility easement.
- (b) The exterior height of the rear wall at the highest point shall be measured vertically from the ground to top of the wall.
- (c) All measurements in regards to yards for building additions shall be measured from the exterior face of wall.
- (d) The cumulative total of all said building additions and any accessory buildings or structures noted in Section 54.09 shall not cover an area exceeding thirty percent (30%) of the required rear yard area specified by the regulations or PUD for the District in which this single-family or two-family dwelling is located.
- (e) Applications for building permit pursuant to this section shall provide the Planning Division with sufficient information to determine the remaining rear yard set back and coverage of the required rear yard area as specified in (a) through (c) above. Building additions proposed for all legal, conforming single-family and two-family dwellings in the Valley Floor Residential

districts require review and approval by the Planning Division or Planning Commission Subcommittee, pursuant to Section 42.10 of this Chapter.

- (f) This section is intended to apply to bona fide building additions not contemplated at the time of original construction, where the owner finds for personal or economic reasons (in a community of growing families and under economic conditions where the purchases of larger homes imposes a heavy financial burden) the need to expand his existing dwelling and would not otherwise be allowed to do so within the required set backs of the District or Planned Unit Development. The waiting period of one (1) year from final inspection is intended to insure that the addition is erected in good faith and in accordance with the intent of this section.

Section 57 – Conditional Uses Permitted by the Commission

57.02-15.1 Additional Uses Permitted

Wireless Communication Facility.

It is the purpose to regulate the placement and design of antennas and wireless communication facilities. The installation of antennas and wireless communication facilities may affect the public health, safety and welfare, as well as the aesthetic quality of life by creating unattractive appurtenances to buildings and open areas, by blocking and degrading views, and by creating visual clutter. Therefore, conditional use permit review and the standards that follow are intended to protect and promote public health, safety, community welfare and the aesthetic quality of life by encouraging the orderly development of wireless communication facilities. In addition, they are intended to regulate the placement of certain antennas due to their size and commensurate visual and aesthetic impact in order to promote public safety and protect the aesthetic quality of the community. The standards that follow are the minimum necessary to obtain the community objectives of promoting public health, safety and aesthetics while providing for reasonable signal access.

Any facilities exempt from local regulation as per FCC regulations and the following non-commercial wireless communication facilities shall be exempt from obtaining a conditional use permit and shall be permitted provided that the following standards are met:

- A. Receive-only radio and television antennas, including satellite dishes one meter or less in diameter in residential zones or on residential buildings, or two meters or less in diameter in commercial and industrial zones, provided that:
 - 1. The antenna meets all lot coverage, height, setback and other requirements on accessory structures as per Section 54.09; and
 - 2. All required building permits are obtained.
- B. Amateur radio facilities, provided that all antennas and supporting structures meet the following requirements:

1. All fixed radio equipment, antennas and antenna support structures shall comply with all lot coverage, height, setback and requirements on accessory structures as per Section 54.09; and
 2. All required building permits shall be obtained.
- C. Temporary wireless communication facilities providing public information coverage of a news event. Mobile facilities providing public information coverage of news events may be set up on public or private property for a duration of seventy-two (72) hours or less.

57.03-3 Conditional Use Procedure

The Planning Commission shall hold a public hearing on said application upon such notice as is required in Sections 64.01 and 64.02 of this Chapter.

Section 58 -Variances

58.01-1 Authority of Commission and Council

The City may grant Variances from the substantive provisions of this Chapter when the strict application of the substantive provisions of this Chapter deprives the property for which the Variance is sought of privileges enjoyed by other property in the vicinity and under identical zoning classification because of special circumstances applicable to the property (including, but not limited to size, shape, topography, location or surroundings).

- (a) The Planning Commission shall have approval authority of Variances relating to development within all districts other than the "H" Combining district.
- (b) The City Council shall have approval authority, upon recommendation by the Planning Commission, of Variances relating to developments within the "H" Combining district.

58.01-2 Authority of Commission and Council

Definition of Variance: A permit issued by the City that sanctions deviations from the adopted Zoning Ordinance regulations related to physical standards of development, such as lot size, building setback, and height limits. A Variance may not be granted to allow a use or density not otherwise allowed within the zoning district.

58.01-3 Authority of Commission and Council

The Planning Commission, or where applicable, the City Council shall be empowered to impose such conditions upon the grant of a Variance as it deems desirable and shall impose such conditions as will assure that the Variance does not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and zone in which said property is located.

- a) The City of Milpitas finds that the granting of a Variance to yard regulations for a lot of record, existing in accordance with law, as provided for in Subsection 54.06-10, does not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and zone in which said property is located.

58.01-4 Authority of Commission and Council

The following standards shall guide the Planning Commission and City Council in the granting or denial of a Variance and in the imposition of conditions upon the grant of a Variance:

- a) A Variance is intended to alleviate a hardship imposed by the zoning law and arising from the particular size, shape, topography, location, surrounding, or other circumstance.
- b) The basic test in each case is one of hardship; Variances should not be granted, except in case of hardship.
- c) Denial of the Variance - under the conditions or circumstances presented - would deprive the particular parcel involved of benefits enjoyed by other parcels in the same District.
- d) A Variance should not be used to correct a condition or circumstance generally applicable to the entire District. (Ord 38.367, 12/16/75)
- e) The granting of the Variance must not injure other parcels of property in the same District nor must it be materially detrimental to the public welfare.

58.02-1 Procedure

The applicant shall file a written application for a Variance request in the office of the Planning Director upon forms prescribed for that purpose.

58.02-2 Procedure

The applicant shall pay a fee upon the filing of each application for Variance in accord with a schedule adopted by Council Resolution.

58.02-3 Procedure

The Planning Commission shall hold a public hearing on each application for a Variance upon such notice as is required in Subsections 64.01 and 64.02 of this Chapter.

58.02-4 Procedure

For Variances not involving the "H" Combining district, the Planning Commission shall review the application and render its decision.

58.02-5 Procedure

For Variances involving the "H" Combining district, the Planning Commission shall make a recommendation to the City Council. The City Council shall hold a

public hearing, with notice as required in Subsections 64.01 and 64.02 of this Chapter, review the application and the Commission's recommendation, and render its decision.

58.02-6 Procedure

The Planning Director shall transmit a copy thereof to the applicant within ten (10) days of the date of decision.

Section 63 - Enforcement and Penalty

63.06-1 Revocation, Suspension, Modification

- (a) The City Council shall have the power to revoke, suspend or modify any permit, variance or approval issued under the provisions of this Chapter (including, but not limited to conditional use permit, variances, or "S" Zone approval) for breach of any condition or requirement imposed upon the granting of said permit, variance or approval.
- (b) The Planning Commission shall have the power to revoke or modify a Use Permit under the provisions of this Chapter when a land use has been abandoned and/or a different permitted or conditional use is approved for the site.

63.06-2 Revocation, Suspension, Modification

- (a) The revocation, suspension, or modification, of a land use permit, as per Subsection 63.03-1(a) above, shall only be made after written notice of violation is mailed to the holder of the permit. The permit holder shall be given an opportunity to explain why the permit should not be revoked, suspended or modified. The Planning Commission and City Council shall hold public hearings in accordance with Title XI, Chapter 10, Sections 64.01, 64.02 and 65 regarding said permit. After receiving the Planning Commission's recommendations on said permit, the City Council at its discretion may revoke, suspend or modify the previously issued permit upon making any of the following findings based on the evidence in the record:
 - 1) There was a violation of a condition of the permit, and the violation was not abated, corrected or rectified within the time specified on the notice of violation;
 - 2) There was a violation of law relating to the permit and the violation was not abated, corrected or rectified within the time specified on notice of violation;
 - 3) The permit or approval is being exercised in a manner which creates a public nuisance; or
 - 4) The permit or approval is being exercised in a manner which is contrary to the public health, safety and welfare.
- (b) The revocation or modification of a Conditional Use Permit, as per Subsection 63.03-1(b) above, shall only be made after the Planning

Commission holds a public hearing, per Section 64 of this Chapter, and makes the following finding:

- 1) The use for which the permit was issued has been abandoned in whole or in part for a period of at least eighteen (18) months, or a different permitted or conditional use is approved for the building or site.

SECTION 5. Title XI Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code is hereby *amended by the deletion of subsections 2.25-1, 2.29-1, 2.75-1, 4.04-4, 4.04-5.1, 4.04-5.2, 7.14 in their entirety:*

SECTION 6. Title XI Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code is hereby *amended by the deletion of Section 41, "DB" Density Bonus Combining District, in its entirety.*

SECTION 7. *The Table of Contents* of Title XI Chapter (Planning, Zoning and Annexation) of the City of Milpitas is hereby *amended* as follows:

Zoning Ordinance Table of Contents

XI-10-1	The Zoning Plan
XI-10-2	Definitions
XI-10-3	Zoning Districts
XI-10-4	R1 Single-Family Residence District
XI-10-5	R1X Single-Family Estate District (Repealed)
XI-10-6	R2 One- and Two-Family Residence District
XI-10-7	R3 Multiple-Family Residence District
XI-10-8	R4 Multiple-Family Very High Density District
XI-10-9	AR Agricultural Residence District
XI-10-17	CO Administrative and Professional Office District
XI-10-18	C1 Neighborhood Commercial District
XI-10-19	C2 General Commercial District
XI-10-20	CS Commercial Service District (Repealed)
XI-10-21	HS Highway Service District
XI-10-22	TC Town Center District
XI-10-30	M1 Light Industrial District
XI-10-31	M2 Heavy Industrial District
XI-10-35	MP Industrial Park District
XI-10-38	MXD Mixed Use District
XI-10-39	POS Park and Public Open Space District
XI-10-40	A Agricultural District
XI-10-42	S Combining District (Site and Architectural review or S Zone)
XI-10-43	TOD Transit Oriented Development Combining District
XI-10-44	MHP Mobile Home Park Combining District
XI-10-45	H Hillside Combining District
XI-10-46	OO Gateway Office Overlay Combining District
XI-10-53	Off-Street Parking Regulations

XI-10-54	General Provisions
	Conformance with All Sections of Code
	Other Uses Permitted by Commission
	Improvement of Parking Areas, etc.
	Zoning of Annexed Areas
	Height Conformance
	Area Requirements
	Planned Unit Development
	Home Occupation
	Accessory Buildings and Patio Covers
	Geologic Hazard Zones
	Fences
	Homebuyer Awareness of General Plan
	Exemptions of certain Nonconforming Uses
	Mobile Home Development Standards
	Areas for Collecting and Loading Recyclable Materials
	Large Family Child Care Homes and Child Care Centers
	School Mitigation Impact Fees
	Adult Business Location Requirements
	Condominium Conversion
	Density Bonus for Affordable Housing Developments
	Affordable Housing and In-Lieu Housing Fee
XI-10-55	Exceptions
XI-10-56	Non-Conforming Buildings and Uses
XI-10-57	Conditional Use Permit
XI-10-58	Variances
XI-10-59	Certificate of Occupancy
XI-10-60	Boundaries of Districts
XI-10-61	Interpretation
XI-10-62	Amendments
XI-10-63	Enforcement and Penalty
XI-10-64	Notice and Appeal
XI-10-65	Procedural Rules for the Conduct of Hearings

SECTION 8. Publication and Effective Date. Pursuant to the provisions of Government Code Section 36933, a Summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting.

SECTION 9. Severability. In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

ZOA 38.761
Summary Matrix of Proposed Zoning Code Amendments
May 13, 2003

PAGE NO.	ISSUE NO.	ISSUE	AFFECTED SECTION(S)	PROPOSED SOLUTION
1-12	1	<p>Antennas in residential areas are currently not regulated, do not require a Use Permit and recent code enforcement cases have brought attention to their visual impact due to height and design.</p> <p>PC Concerns: Issues regarding antenna color and number of; installing without an engineer's stamp, but as per manufacturers specs; and satellite and locations for MF projects</p>	<p>2.07-1 to -3 2.26-1.2 2.58-5.2 2.62-1 2.67 (a) 2.68-1 2.75-1 2.78-4 55.02-3 54.09-16 57.02-15.1</p>	<p>Add non-commercial wireless communication facilities as an accessory structure with a height standard of 25 feet above maximum building height in said district, unless telescoped design. Prohibit guy wires for TV antennas on roof and other antennas over 20 feet in height from grade. Provide size, setbacks and quantity restrictions. Exempt from use permit approval. In addition, make reference in the height exception section that wireless masts are regulated under accessory structure section. Create new definitions to cover type of residential antennas and related terms and distinguish between telecommunication facilities, as well as eliminate telecom term.</p> <p>Staff Changes: Prohibit guy wires for antennas over 20 feet in height from grade; add color restrictions; restrict number to two over 20 feet in height; require removal if abandoned; prohibit easement encroachment; provide statement of purpose to standards; add definitions for parcel and public right-of-way; and add language to preclude satellite dishes preempted by federal law from requiring a use permit if the location between a structure and a public right-of-way is the only unobstructed location available to receive a signal.</p>
	2	Deleted.		
5, 7, 13	3	Code states that all accessory buildings and	2.69-.5	Amend the definition of rear yard, side yard, and yard to

NOTE: Language in **BOLD** indicates Planning Commission concerns from their review at 2/26/03 and 4/9/03 meetings and Staff's solutions, text modification, and affected sections.

ZOA 38.761
Summary Matrix of Proposed Zoning Code Amendments
May 13, 2003

		structures are measured from the eaves, however it is unclear whether a main building is measured from the eaves when determining setbacks.	2.79 2.81 2.82 55.04-11(b) to (f)	reflect that measurements are from the walls, not eaves. Modify language in Section 55 (Exceptions) to state building additions setbacks are measured from exterior walls, not eaves. Retain eaves setback for accessory buildings and structures to ensure no encroachment into 3-foot setback to neighboring lot.
9, 14	4	Recent Ordinance 38.760 included pools and spas in the 30% maximum rear yard coverage. However, further research reveals the size of most pools exceeds 30% of the rear yard and this would prohibit smaller lots from having pools and spas. PC Concerns: Clarification needed for excluding in-ground spas as well as in-ground pools.	54.09 54.09-11 54.09-15	Exclude in-ground pools, in-ground spas and associated decking (if not more than 18" off the ground) from the rear yard 30% allowance. Above-ground pools and above-ground spas, pool equipment units, and A/C units would not be exempt because they project more than 18" off the ground and are similar to other non-exempt accessory structures. Staff Changes: Added the phrase "in-ground" before spas.
	5	Deleted		
6, 15-16	6	Codify recent determination by the Planning Commission to allow only tri-laminate asphalt composition in PUD's and "S" Zones. In addition, make clear that no asphalt composition is allowed anywhere in the hillside consistent with past Planning Commission actions. PC Concerns: Issues concerning wood shake and tri-laminate in the Hillside and wood shake throughout the City.	2.77(a) 42.10-2(C)	Amend the re-roof permit streamlining section to state that tri-laminate asphalt composition is allowed in the valley floor "S" Zones districts and PUD's. Staff Changes: Allow tri-laminate asphalt composition throughout the City; approvable by staff for the hillside and valley floor residential and by the Subcommittee for non-residential districts. Only allow the Planning Commission the ability to approve wood shake to discourage wood shake roofs given recent fire concerns with wood shake even

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ZOA 38.761
Summary Matrix of Proposed Zoning Code Amendments
May 13, 2003

				for hillside, except when listed as a required roof material in a PUD development standard, which staff may approve. Provide a definition for tri-laminate asphalt composition.
17-23	7	<p>Incorporate new Housing Element policy direction:</p> <ul style="list-style-type: none"> <input type="checkbox"/> From Housing Element Policy B-I-1: Pursue a text amendment to allow housing at densities of up to 40 units per acre as a permitted use within the TC district (currently it is listed as conditional use). <p>PC Concerns: Need to state a minimum density to residential permitted uses of 20 or 25.</p> <ul style="list-style-type: none"> <input type="checkbox"/> From Housing Element Policy C-I-3: Amend density bonus ordinance, to delete the DB combining district and to allow instead density bonuses in all districts where housing is allowed. Must conform to State law (AB 1866). <input type="checkbox"/> From Housing Element Policy C-I-5: Amend to define the term "group dwellings" as 	<p>22.02-26.1 22.04-7</p> <p>3.02 41.00 (all) 54.20 (all)</p> <p>2.36</p>	<p>Staff Changes:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Revise text in the conditional uses list, to specify residential developments of 1-20 units per gross acre. Add residential developments of 21-40 units per gross acre to permitted uses list in TC. The reference to gross acreage is consistent with other density designations. Add a minimum density to be exempt from use permit to implement Housing Element identified housing opportunity sites. <input type="checkbox"/> Remove DB combining district from Section 3 of Zoning Ordinance; move DB section to the General Provisions section of the Zoning Ordinance, since it now applies to all districts where housing is allowed, without requiring a zone change to an overlay district; renumber; remove references to overlay district; clarify wording; make code references consistent in format; add references to maximum allowable densities in zoning districts that allow residential development; tie agreement recordation to residential occupancy, rather than within 60 days of project approval. <input type="checkbox"/> Revise definition accordingly. Group dwellings are already listed as a conditional use in MXD.

NOTE: Language in **BOLD** indicates Planning Commission concerns from their review at 2/26/03 and 4/9/03 meetings and Staff's solutions, text modification, and affected sections.

ZOA 38.761

Summary Matrix of Proposed Zoning Code Amendments May 13, 2003

		including homeless shelters and transitional housing. Identify group dwellings as a conditionally permitted use in the recently created MXD district as in the R3 and R4 districts.		
24-27	8	<p>To better promote high density residential development and efficient use of land, allow tandem parking in certain situations.</p> <p>PC Concern: The term "stalls" is confusing.</p>	<p>38.06-3(a) 38.06-3(a)(3) 38.06-3(b)(3) 38.06-3(c) 7.09-1.5(c) 7.09-4 8.06-2.5(c) 8.06-3 to 8.06-6</p>	<p>Allow two (2) deep tandem parking for residential uses in MXD projects, R3 and R4 districts and prohibit for non-residential or guest parking requirements. Tandem stalls shall be assigned and marked for residents only. Provide consistency among MXD, R3, and R4 districts regarding requiring covered spaces and crediting on-street parking for required residential parking. Tandem parking only allowed for residential units.</p> <p>Staff Changes: To be consistent substituted the term "stalls" with "spaces". In addition, established a depth for tandem parking spaces.</p>
	9	Deleted		
	10	Deleted		
28	11	<p>The zoning ordinance sets forth violation penalties that are cumbersome to enforce and have high staff costs. Need simpler and quicker alternative.</p> <p>PC Concerns: Increase the number of days to comply from</p>	63.07	<p>Add a new section to Enforcement Chapter called "Administrative Citations" and provide an administrative process and a schedule of fines that may be imposed if a property or building doesn't comply within a prescribed time.</p> <p>Staff Changes:</p>

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		15 to 31; clarify 1 year rather than 12 months; allow inflationary fine increase each year; and reference other city's penalties for lack of fine payment.		Did not change number of days because same violations do not require more than 15 days -- other violations that do can be given more time if warranted by staff. Fine amounts are set by Government Code. Other remedies are included in the NBO section of that this ordinance references.
	12	Deleted		
29	13	Front yard setback in C1 currently refers to R districts for provisions, but this would imply different setbacks, as little as zero, if certain residential zoning districts were referenced. Therefore there is need to specify the front yard setback.	18.04-2	Delete reference to residential section for front yard setback and insert twenty 20 feet.
24, 30	14	Inadvertently left out duplexes as prohibited uses in MXD and close loophole for parcels than 20,000 SF.	38.04-4.2 38.05-4 38.06-3 (a)	Add duplexes to prohibited uses in the MXD District and add language to close loophole if parcel is less than 20,000 SF.
31-40	15	Due to differences in traffic and parking impacts and demands and to clearly ascertain in which districts full body massage is allowed in conjunction with medical offices, separate out medical and dental offices from professional offices in all zoning districts. In addition, difference between clinics, laboratories and medical offices needs to be clarified.	2.58-1 2.58-1.1 2.58-1.2 2.58-1.3 18.02-27.1 18.03-8.1 19.02-26 22.02-19.1 30.02-3.1 35.02-6	Provide a definition of medical and dental offices, clinics and laboratories. Call out medical and dental offices as permitted uses in C1, C2, MXD, and TC. Call out medical and dental clinics as conditional uses in C1. Call out medical and dental offices, clinics and laboratories as permitted uses in M1, M2, and MP. Add parking requirements for medical clinics and laboratories. Medical and dental clinics are proposed to not be allowed in the TC district, however offices would be allowed.

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		<p>PC Concern: Require explanation of why 40-day time limit was deleted (see above).</p>		<p>date; (3) a project applicant may submit revised plans, necessitating a new review, which requires additional time; (4) State law does not require the 40-day turn-around; (5) this section of the Milpitas code was adopted in 1955, prior to State Permit Streamlining Act.</p> <p>In researching this question, staff realized that the Use Permit process currently includes a requirement that a public hearing commence within 40 days of receipt of a Use Permit application. As with variance applications, this time frame does not acknowledge the 30-day application completeness time frame allowed by the State or the possibility of extended review time line regarding revised design submittal, issues, etc. State law contains no such requirement for hearing date commencement.</p> <p>Staff Changes: Staff recommends a text amendment to Section 57 (Conditional Use Permit) to delete the 40-day hearing commencement. Staff also recommends fully referencing the public hearing notification process in Section 64 (currently, the reference is not complete).</p>
47-48	19	<p>Correct the typographical error in the TOD District parking reduction provisions to indicate the 20% parking reduction is for the "MXD-TOD" in the northern Midtown area not the "R4-TOD", which does not exist. In addition, since properties in the TOD area can be rezoned in the future, references to specific areas, north and</p>	<p>43.05-1 43.05-2 43.06-2</p>	<p>Amend the TOD parking provisions to state the 20% parking reduction is for TOD developments within ¼ mile of the north BART station. Delete "North Midtown" and "South Midtown" area references.</p> <p>Staff Changes:</p>

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		south, need to be removed. PC Concern: Require clarification regarding what is meant by "North Midtown" reference in the TOD area.		Removed North Midtown reference and add that the parking reduction provision applies to TOD developments within a one-quarter (1/4) mile radius of the Northern BART station.
49-59	20	Amend the Permit Streamlining Section of ZO to provide level of approvals for MXD since it allows mixed use buildings and streamlining section makes distinctions between non-residential versus residential buildings. Clarify approval authority for unscreened roof-top equipment. Re-evaluate commercial and industrial building additions size for Planning Commission review. Clarify Planning Commission Subcommittee role in approving roof equipment. Delete references to Historical Commercial District and Council Res. 6077, since these no longer exist. Change size requirements relating to building additions. PC Concerns: There are cases where the PC should review additions as small as 5,000 SF.	42.10	Revise text to address the new MXD and R4 districts. Clarify Planning Commission Subcommittee role in approving roof equipment. Delete references to Historical Commercial District and Council Res. 6077, since these no longer exist. Staff Changes: Change commercial/industrial building addition size threshold for Planning Commission Subcommittee approval, as follows: change threshold from 10,000 square foot to 5,000 square foot addition, or 10% of existing building size, whichever is less (and making such additions cumulative from the code implementation date). Revise "building additions" section to be consistent with recently adopted zoning code regarding non-conforming buildings, and also to provide an exception regarding building addition size threshold for second units, since such projects must be kept at a ministerial approval level per State law. Revise "building additions" and "accessory buildings" sections to clarify staff approval role regarding second family units.
4, 60	21	Zoning Ordinance does not provide a definition	2.67 (b)	Add a definition for public use that is consistent with the

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		for public use and the current definition of quasi-public use conflicts with the Midtown Plan Appendix and is not clear if private or public organization	2.67 (c) 2.67-1 22.04-6	definition in the Midtown Specific Plan, which states are uses provided by public agencies for the general public. In addition, amend the existing definition of quasi public use to be also be consistent with the Midtown Specific Plan and clarify they are uses provided by private organizations for the general public. Staff Changes: To clarify that movie theaters are not considered quasi-public uses, amended definition to read "community theaters". In addition, to be consistent with changes to public and quasi-public use definition, delete old definition of quasi-public use in TC district and reference new definitions.
61	22	It is not clear whether compact stalls are allowed for commercial districts and uses.	53.14-3	Add text that prohibits compact stalls for commercial districts and uses, with an exception for MXD.
62	23	Clarify that a joint use agreement is only required in situations that involve a condominium or when parking is shared between parcels.	53.07(e)(3)	Modify zoning text to only require a joint use agreement when involving two or more parcels or in a condominium setting.
63-65, 65a-d, 55-56	24	Second family units are currently allowed in the R1 single-family zoning district on corner lots with minimum lot sizes of 6,000 SF as a conditional use. In order to be consistent with a recent state assembly bill (AB 1866), second units must be administratively approvable.	2.03 2.25-1 2.69-1 to -3 4.02-5 4.04-4 4.04-5	Delete second family unit section from conditional uses and add to permitted uses sections of the R1, R2, R3, R4 and MXD zoning districts. Clarify development standards, and revise to include parking requirements and require a visually integrated design with the main dwelling. Remove locational criteria (corner lot, 6,000 sq. ft. minimum lot

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		<p>PC Concerns: Determine if State definition of AB 1866 would allow preclusion of a separate second entrance; and add “at time of application” to provision of 1 of 2 units being occupied by the owner.</p>	<p>4.04-5.1 to 5.2 6.02-5 7.02-4 8.02-3 38.02-7 38.02-8 42.10-2.I & J 54.22</p>	<p>size) because such criteria are not consistent with State law. Change building increase limit from 10% to 30% to be consistent with State law. Add a definition for second family unit.</p> <p>Staff Changes: Renumbered existing Definitions text; and added “at time of application” text. Cannot disallow a separate entrance for second unit, since State code definition of second unit is that it “provides complete independent living facilities,” and a separate entrance is consistent with this definition. Allow a traffic study to be submitted if there is reason to believe a traffic flow problem could be created.</p> <p>Additional changes after staff attendance at a recent forum regarding the new State law: Revised second family units definition to more closely reflect that of State law. Created a section within the General Provisions section to address development standards for second units, including valley floor and hillside situations for both attached and detached second units. Delete caretakers unit from the conditional uses section of R1 text, and delete definition for caretakers unit, since caretakers unit is essentially a second family unit, and such can no longer be approved under a discretionary review process. Retain guest house as a conditional use in R1 district, since it is not a second family unit (does not have a kitchen). Revise Section 42 (permit streamlining section) to clarify staff approval for second family units that are proposed as building</p>
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				additions or accessory buildings.
66-67	25	<p>The intent of the Floor Area Ratio (FAR) calculation is to determine density in non-residential zoning districts, which assists in controlling the mass of a development. However, it does not exclude underground or partial-underground parking areas that do not contribute to the visual prominence of a building.</p> <p>PC Concerns: Reference other cities to gauge whether above grade parking structures should be excluded from FAR as recommended in the Midtown Plan appendix definition.</p>	<p>2.38-2 2.41-1.2</p>	<p>Amend the definition of FAR to exclude areas used exclusively for parking that are below grade by at least 4 feet from the FAR calculation. (see below)</p> <p>Staff Changes: Research from other cities revealed that San Jose excludes parking in basements only from FAR, where Fremont excludes all parking areas (below or above grade) from FAR. Staff concluded to retain current Midtown Plan area definition of FAR (which excludes all structure parking areas) since Midtown area is anticipated to be denser and have taller buildings. However, in all other areas of the city only basement (completely below grade) parking should be excluded from FAR because it would not contribute to the bulk of a building or site.</p>
68-72	26	<p>To be consistent with the policies adopted in the Child Care Master Plan in April 2002, large family child care homes need to be changed from conditional uses to accessory or permitted uses in all residential districts, including MXD.</p>	<p>4.03-6 4.04-6 6.03-6 6.04-6 7.03-6 7.04-4 8.03-5 8.04-3 38.02-6 38.03-1 (1) 54.16</p>	<p>Delete large family day care homes from conditional uses sections of R1, R2, R3, R4 and MXD and add as permitted or accessory uses in those districts. In addition, include a reference to the child care standards in Subsection 54.16 (General Provisions). Revise child care development standards in Subsection 54.16 to reflect new State law governing review of child care facilities.</p>

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68-71, 73-75, 77-78	27	<p>Amend the definition of family child care homes (large and small) to reflect the current state regulations and update the language to reflect new terminology to be consistent with state licensing language.</p> <p>PC Concern: Need to clarify that child care facility (formerly day care home) is still a facility in a home.</p>	2.26-1 to -3 2.26-4 to -7 2.29-1 2.38-1 4.03-5 4.04-6 6.03-5 6.04-6 7.03-5 7.04-4 8.03-4 8.04-3 17.04-9 18.03-4.1 19.03-9.1 21.03-5.1 22.04-3.1 38.02-5 38.03-1(1) 40.04-2.1 53.23-6 to -8 54.16	<p>Revise definition of family day care home to list large family child care homes as caring for 9 to 14 children (used to be 7 to 12) and small family child care homes as caring for up to 8 children (used to be 6). In addition, amend the terminology to be consistent with State code, replacing the word "day" with "child," such as "child care center," instead of "day care center," and family child care home," instead of "family day care home," etc. Renumber existing Definitions text.</p> <p>Staff Changes: Amended definition of child care facility to reflect that care may be provided in care taker's home.</p>
79-86	28	<p>Condominium Conversion section is currently in the R3 zoning text (XI-10-7.14) and referenced in R4. Now that we have R4 and MXD districts, and since housing is also allowed in TC district, we may want to move the Condo Conversion text to General Provisions section or make as a separate chapter.</p>	7.14 8.04-8 54.19 (all)	<p>Move language in 7.14 (which is R3) and add to General Provisions in 54.19 so that it will apply to all zoning districts where rental housing is allowed. Change reference in 8.04-8 (which is R4) to reflect the new location of the condominium conversion text in Section 54.</p>

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24-27, 87	29	Clarify that compact stalls are allowed in R-3, R-4 and MXD Districts under certain conditions. PC Concern: Percentage of compact stalls proposed may be too high. Check with neighboring cities.	38.06-3(b)(1) 38.06-3(b)(2) 38.06-3(d) 7.09-1 7.09-1.5(a) 7.09-1.5(b) 7.09-5 7.09-6 8.06-2.5 8.06-2.5(a) 8.06-2.5(b) 8.06-5 8.06-6	Allow up to 50 percent of total required parking to be compact stalls in these districts (in MXD, allowed for residential uses only), however, not allowed for non-residential, guest parking and in certain cases for parking garages with more than 8 stalls. Staff Changes: Staff took an average of San Jose (40%), Fremont (30%) and San Francisco (50%) and proposed 40% of total compact stalls allowed. In addition, provide residential parking dimensions in R-3, R-4 and MXD zoning districts since City's parking standards (Section 53) only apply to non-residential.
88	30	There are no provisions for FAR (Floor Area Ratio) for C2-TOD and M2-TOD zoned properties that exist within Midtown.	43.05-3 45.05-4	Add FAR's for C2-TOD of 100% and M2-TOD of 40% to the TOD Overlay District development standards.
89-90	31	Update table of contents to reflect above new topics being added to General Provisions	Table of Contents	See Table of Contents
91-92	32	There are no provisions to allow use permit revocation procedure for abandoned and superceded uses.	63.06-1 to -2	Amend existing text to allow for situations of Use Permit revocation where the use has been abandoned. Proposed language calls for Planning Commission involvement only. (Currently, the code addresses only those instances where there has been a code violation or public nuisance involved, and the revocation process involves both Planning Commission and City Council review.)
2, 93	33	Current ordinance does not provide a	2.26-1.3	Provide a definition for conference centers and allow as

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		definition or allowances for a conference center as a primary use.	2.26-1.4 35.04-5.1 35.04-5.2	a conditional use in the MP zoning district.
N/A	34	Add regulations for inclusionary affordable housing including in-lieu housing fee for residential developments citywide.		Deleted from proposed Ordinance 38.761 for further study.
6, 94-95	35	Tutoring Centers are currently not addressed in the code.	2.77(b) 19.02-35.1 22.02-35	Add tutoring centers as a permitted use in the C2 and TC districts. Provide a definition.

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